

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Rule making related to federal motor carrier safety and hazardous materials regulations

The Department of Transportation hereby amends Chapter 520, "Regulations Applicable to Carriers," Chapter 529, "For-Hire Interstate Motor Carrier Authority," and Chapter 607, "Commercial Driver Licensing," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 307.12, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.188, 321.449 and 321.450.

Purpose and Summary

These amendments are part of the regular, annual update by the Department to adopt the most recent updates to the federal regulations published by the Federal Motor Carrier Safety Administration (FMCSA) and the Pipeline and Hazardous Materials Safety Administration.

Iowa Code section 321.188 requires the Department to adopt rules to administer commercial driver's licenses in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383.

Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399.

Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the Federal Register (FR). Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The amendments to Chapter 520 adopt the current CFR dated October 1, 2018, for 49 CFR Parts 107, 171 to 173, 177, 178, 180, 385 and 390 to 399.

The amendment to Chapter 529 adopts the current CFR dated October 1, 2018, for 49 CFR Parts 365 to 368 and 370 to 379.

The amendment to Chapter 607 adopts the current CFR dated October 1, 2018, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR.

To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2018 edition of the CFR and that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Part 367 (FR Vol. 83, No. 4, Pages 605-613, 01-05-18)

This final rule establishes reductions in the annual registration fees collected from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration Plan and Agreement for the registration years 2018 and 2019 and subsequent years. For the 2018 registration year, the fees will be reduced below the current level by approximately 9.10 percent to ensure that fee revenues do not exceed the statutory maximum and to account for the excess funds held in the depository. For the 2019 registration year and subsequent years, the fees will be reduced below the current level by approximately 4.55 percent to ensure the fee revenues in 2019 and future years do not exceed the statutory maximum. Effective date: January 5, 2018.

Parts 370, 371, 373, 375, 376, 378-380, 382, 387, 390, 391, 395, 396, and 398 (FR Vol. 83, No. 73, Pages 16210-16228, 04-16-18)

This final rule amends the FMCSR to allow the use of electronic records and signatures to satisfy FMCSA's regulatory requirements. The amendments permit the use of electronic methods to generate, certify, sign, maintain, or exchange records so long as the documents accurately reflect the required information and can be used for their intended purpose. This rule applies only to those documents that FMCSA's regulations obligate entities or individuals to retain; it does not apply to forms or other documents that must be submitted directly to FMCSA unless there are already procedures in place in the regulations for electronic submission to FMCSA. This rule partially implements the Government Paperwork Elimination Act and the Electronic Signatures in Global and National Commerce Act. Effective date: June 15, 2018.

Parts 350, 360, 365, 373, 380, 382-385, 387, 390, 393, and 395-398 (FR Vol. 83, No. 96, Pages 22865-22882, 05-17-18)

This final rule amends FMCSR by making technical corrections. FMCSA makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, ensure conformity with Office of the Federal Register style guidelines, and improve the clarity and consistency of certain regulatory provisions. Effective date: June 18, 2018.

Parts 370, 371, 373, 375, 376, 378, 379, 380, 382, 387, 390, 391, 395, 396, and 398 (FR Vol. 83, No. 102, Page 24228, 05-25-18)

This final rule corrects the electronic documents and signatures final rule published on April 16, 2018, that amended FMCSR to allow the use of electronic records and signatures to satisfy FMCSA's regulatory requirements. This document corrects an amendatory instruction, removes two extra commas at the end of two phrases, and adds "of this section" to a cross reference in a paragraph. Finally, FMCSA rescinds its January 4, 2011, interpretations and regulatory guidance. Effective date: June 15, 2018.

Part 373 (FR Vol. 83, No. 110, Page 26374, 06-07-18)

This final rule corrects the technical corrections final rule published on May 17, 2018, that amended FMCSR to make minor changes to correct inadvertent errors and omissions, remove or update obsolete references, ensure conformity with Office of the Federal Register style guidelines, and improve the clarity and consistency of certain regulatory provisions. This document corrects an amendatory instruction. Effective date: June 18, 2018.

Parts 390 and 391 (FR Vol. 83, No. 112, Pages 26846-26864, 06-11-18)

This final rule amends FMCSR to establish an alternative process for qualified advanced practice nurses, doctors of chiropractic, doctors of medicine, doctors of osteopathy, physician assistants, and other medical professionals who are employed in the U.S. Department of Veterans Affairs (VA) and are licensed, certified, or registered in a state to perform physical examinations (qualified VA examiners) to be listed on FMCSA's National Registry of Certified Medical Examiners (National Registry), as required by the Fixing America's Surface Transportation (FAST) Act and the Jobs for Our Heroes Act. After successful completion of online training and testing developed by FMCSA, these qualified VA examiners will become certified VA medical examiners who can perform medical examinations of, and issue medical examiner's certificates to, commercial motor vehicle operators who are military veterans enrolled in the VA health care system. This rule will reduce the costs for qualified VA examiners to be listed on the National Registry. Effective date: August 10, 2018.

Parts 172, 173, and 180 (FR Vol. 83, No. 117, Pages 28162-28168, 06-18-18)

This final rule is in response to appeals submitted to a previously published final rule. On June 2, 2016, the Pipeline and Hazardous Materials Safety Administration published a final rule that made miscellaneous amendments to the HMR. This final rule specifically responds to appeals to extend the effective date of certain nitric acid packaging and emergency response telephone number amendments as previously adopted. This final rule also clarifies amendments associated with the trigger date of the ten-year test period for certain motor carrier 331 cargo tanks in dedicated propane service and corrects editorial errors. Effective date: July 18, 2018.

Parts 383, 384, and 391 (FR Vol. 83, No. 120, Pages 28774-28783, 06-21-18)

This interim final rule amends FMCSR to delay the compliance date from June 22, 2018, to June 22, 2021, for several provisions of FMCSA's April 23, 2015, Medical Examiner's Certification Integration final rule. This action is being taken to provide FMCSA additional time to complete certain information technology system development tasks for its National Registry and provide state driver's licensing agencies sufficient time to make the necessary information technology programming changes after upgrades to the National Registry. Effective date: June 21, 2018.

Part 391 (FR Vol. 83, No. 182, Pages 47486-47521, 09-19-18)

This final rule revises FMCSR to permit individuals with a stable insulin regimen and properly controlled insulin-treated diabetes mellitus (ITDM) to be qualified to operate commercial motor vehicles (CMVs) in interstate commerce. Previously, individuals with ITDM were prohibited from driving CMVs in interstate commerce unless the individuals obtained an exemption from FMCSA. This rule enables a certified medical examiner to grant an individual with ITDM a Medical Examiner's Certificate, MCSA-5876, for up to a maximum of 12 months. To do so, the treating clinician (the health care professional who manages and prescribes insulin for the treatment of the individual's diabetes) provides the Insulin-Treated Diabetes Mellitus Assessment Form MCSA-5870 to the certified medical examiner indicating that the individual maintains a stable insulin regimen and proper control of the individual's diabetes. The certified medical examiner then determines that the individual meets FMCSA's physical qualifications standards and can operate CMVs in interstate commerce. Effective date: November 19, 2018.

Parts 360, 380, 382, 385, 390, 391, and 395-397 (FR Vol. 83, No. 188, Pages 48721-48726, 09-27-18)

This final rule makes technical corrections throughout the FMCSR. FMCSA makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. Effective date: September 27, 2018.

Parts 383 and 384 (FR Vol. 83, No. 189, Pages 48964-48976, 09-28-18)

This final rule allows, but does not require, state driver's licensing agencies to waive the requirement of the commercial learner's permit knowledge test for certain individuals who are, or were, regularly employed within the last year in a military position that requires, or required, the operation of a CMV. This rule includes the option for a state driver's licensing agency to waive the tests required for a passenger carrier (P) endorsement, tank vehicle (N) endorsement, or hazardous material (H) endorsement, with proof of training and experience. Effective date: November 27, 2018.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 30, 2019, as **ARC 4256C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on March 12, 2019.

Fiscal Impact

The fiscal impact cannot be determined. The federal regulations to be adopted by this rule making were subject to fiscal impact review by either the Federal Motor Carrier Safety Administration or the

Pipeline and Hazardous Materials Safety Administration when the regulations were enacted and were determined not to be cost-prohibitive.

Jobs Impact

The amendments may have a slight impact on motor carrier operations. However, the amendments should not negatively impact jobs or employment opportunities because the amendments align the rules to federal regulations and bring uniformity and consistency to the industry, which should have a positive impact on employment.

Waivers

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on May 15, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. *Motor carrier safety regulations.* The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2017~~ 2018).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. *Hazardous materials regulations.* The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2017~~ 2018).

ITEM 3. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2017~~ 2018, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or through the Internet at www.fmcsa.dot.gov.

ITEM 4. Amend paragraph **607.10(1)“c”** as follows:

c. The following portions of 49 CFR Part 383 (October 1, ~~2017~~ 2018):

- (1) Section 383.51, Disqualification of drivers.
- (2) Subpart E—Testing and Licensing Procedures.
- (3) Subpart G—Required Knowledge and Skills.

(4) Subpart H—Tests.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 4/10/19.